

NOT FOR PUBLICATION

SEP 03 2004

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

AYAUB SHAKEEL,

Petitioner,

v.

JOHN ASHCROFT, Attorney General,

Respondent.

No. 03-70907

Agency No. A70-109-895

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted August 25, 2004**
San Francisco, California

Before: SCHROEDER, Chief Judge, GOODWIN, and TASHIMA, Circuit Judges.

Ayub Shakeel, a native and citizen of Pakistan, petitions for review of the
Board of Immigration Appeals' summary affirmance without opinion under 8

* This disposition is not appropriate for publication and may not be cited to or
by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral
argument. See Fed. R. App. P. 34(a)(2).

C.F.R. § 3.1(e)(4) of an Immigration Judge's denial of his applications for asylum and withholding of deportation under section 243(h) of the Immigration and Nationality Act. One member of the BIA entered the decision of the Board.

We review the decision of the Immigration Judge ("IJ"). The IJ made no express adverse credibility finding. Taking all of the petitioner's testimony as true, we conclude that the harm petitioner suffered does not rise to the level of past persecution and the evidence as a whole does not compel a finding of a well founded fear of future persecution.

In failing to qualify for asylum, Shakeel necessarily failed to satisfy the more stringent standard for withholding of removal. *See Gonzales-Hernandez v. Ashcroft*, 336 F.3d 995 (9th Cir. 2003). Because Shakeel presented no evidence that it is more likely than not that he would be tortured upon return to Pakistan, the IJ properly rejected his claim under the Convention Against Torture, *See Kamalthas v. Ins*, 251 F.3d 1279, 1284 (9th Cir. 2001).

The petition for review is DENIED.